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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/121,567 07/23/98 BURZYNSKI S BURG047-KAM

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DOCKETED ☒ UPDATED ☐

Previously ☐ Not Required ☐

Appl. Info ☐

Reg/Grant Info ☐

Action Required: Resp to Da

Resp to Da - Final

Date Due/Dor: 9-6-99/1-6-00

By: Sh Checked Sh

EXAMINER

GOLDBERG, J

ART UNIT	PAPER NUMBER
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1614

DATE MAILED:

08/06/99

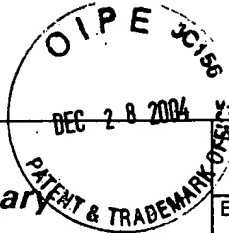
Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

REC'D. - A. W. & D.

AUG 10 1999

HOUSTON DOCKETING DEPT.

**Office Action Summary**

Application No.

09/121,567

Applicant(s)

Burzynski

Examiner

Jerome D. Goldberg

Group Art Unit

1614

☐ Responsive to communication(s) filed on _____☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims☒ Claim(s) 1-44 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.☐ Claim(s) _____ is/are rejected.☐ Claim(s) _____ is/are objected to.☒ Claims 1-44 are subject to restriction or election requirement.**Application Papers**☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on _____ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been☐ received.☐ received in Application No. (Series Code/Serial Number) _____.☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☐ Notice of References Cited, PTO-892☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152**REC'D. - A. W. & D.****AUG 10 1999****HOUSTON DOCKETING DEPT.**

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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References cited by applicant should be on a form PTO - 1449.

Restriction to one of the following inventions is required under 35 U.S.C. 121.

Group I: Claims 1-6 and 25-27 drawn to compositions and methods for treating cancer with an enhanced combination of Formulas I and III.

Group II: Claims 7-10 and 28-30 drawn to compositions and methods for treating cancer with an enhanced combination of Formulas IV and I.

Group III: Claims 11-16, 31³²_A and 33 drawn to compositions and methods for treating cancer with an enhanced combination of Formulas IV and III.

Group IV: Claims 17-20 drawn to a compositions of Formula I alone.

Group V: Claims 21-24 drawn to a compositions of Formula III alone.

Group VI: Claims 34-36 drawn to a method for treating cancer employing a combination of Formulas I and III and a combination of Formulas IV and I.

Group VII: Claims 37-39 drawn to a method for treating cancer employing a combination of Formulas I and III and a combination of Formulas IV and III.

Group VIII: Claims 40-44 drawn to a method for treating cancer employing Formula IV above.

If applicant elects either Groups I-III, VI or VII, he is further required to elect a single enhanced combination of one of the Formula with one of the other formula and to add a claim to the elected enhanced combination.

The several inventions above are independent and distinct, each from the other, as they have acquired a separate status in the art of treating cancer as a separate subject matter for

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inventive effect and require independent searches. It is noted that a reference to one enhanced combination of drugs would not be a reference to another enhanced combination of drugs under 35 U.S.C. 103. Further, the claims read on a multitude of enhanced combination of drugs which would require many field of searches that would be an undue burden on the Examiner.

Therefore, restriction for examination purposes is proper.

Applicant is required to make a provisional election even though this requirement is traversed.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner J. D. Goldberg whose telephone number is (703) 308-4606. The examiner can normally be reached on Monday through Thursday from 9:00 a.m. to 3:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Cintins, can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556 or 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

J, Goldberg; CV

8/2/99



JEROME D. GOLDBERG
PRIMARY EXAMINER
GROUP 1235